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BEYER LAW GROUP LLP/APPLE INC.			OLANIRAN, FATIMAT O	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 3/6/2009 have been fully considered but they are not persuasive.

Applicant argues pg. 9, "The Examiner contends that Sato discloses a method for approximating an n-band graphic equalizer having n-band graphic equalizer settings associated with a media item using not more than m predetermined filter types, as recited by claim 1 of the invention. However, Sato explicitly states that "The center frequencies, gains and peak factors of several filters are **not fixed but properly determined by using the algorithm of the present invention**" (col. 1, lines 65-67, emphasis added). Since the filters in question are not fixed, but determined by the algorithm of Sato, they cannot be predetermined as required by claim 1."

Examiner respectfully disagrees; applicant argument does not give claim limitations the broadest most reasonable interpretation. Applicant argument does not specifically address the algorithm of Sato with respect to applicant's claim language.

Applicant argues pg. 10, "The Examiner contends that Sato discloses: (a) classifying the n-band graphic equalizer settings by comparing a composite frequency response shape representing the n-band graphic equalizer settings with at least a portion of the frequency response shape of one or more of the predetermined filter types, as recited in claim 1. The Examiner cites col. 2, lines 1-13 and col. 4, lines 10-23 as disclosing this.

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However, after a careful review of these sections, Applicant cannot determine what could possibly be a composite frequency response shape representing the n-band graphic equalizer settings. Sato does not teach or suggest using a composite frequency response shape representing the n-band graphic equalizer settings. In the cited section, Sato discloses an overview of a process whereby all n filters are set to 0dB and then one by one each filter has its center frequency selected and then its gain and peak factor estimated (col.4, lines 10-23)."

Examiner respectfully disagrees; "a composite frequency shape" is inherent to an equalizer. The function of an equalizer is generally to determine gains over a frequency range; this is the composite frequency shape, Sato discloses in col. 2 line 1-5, "...setting a filter, the gain value for each setting frequency determined by a user..." therefore Sato discloses a composite frequency shape response setting.

Applicant argues pg. 10 last paragraph, "The Examiner contends that Sato discloses: (d) selecting no more than m predetermined filter types having the highest priority. The Examiner cites col. 4, lines 19-21 as supporting that contention. That section of Sato recites selecting one filter during the processing of the first of n bands to be processed. The procedure of Sato continues as long as there are bands left to process and filters to set as shown at steps S6, S7 and S13 of figures 2, 3 and 4 included below."

Examiner respectfully disagrees; priority is a subjective determination as claim 1 does not disclose limits or a process for determining priority. Sato discloses selecting filters

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and limits on the selection (col. 4 lines 19-21) therefore Sato discloses selecting filters based on priority.

Applicant argues, pg. 12, "It should be noted that once the user has established the number of frequency bands (for example in figure 9,  $n = 9$ ), Sato never uses fewer than the established number of frequency bands (which in this example is 9) to form the equalizer. This can be shown, for example, in Figs. 30 - 38 as well as Fig. 14 below where a total of  $n = 9$  frequency bands are shown. Therefore, in contrast to the invention recited in at least claim 1, Sato does not teach nor suggest approximating an  $n$  band equalizer using fewer than  $n$  filters."

Examiner respectfully disagrees; Sato discloses in Fig. 9-10 nine bands and Sato uses 3 filter types (col. 4 lines 20-21). Therefore Sato reads on applicants claim of "... $n$ -band graphic equalizer....using not more than  $m$  predetermined filter types...where  $m$  is less than  $n$ ..."

Applicant argues pg. 14, "However, nowhere does Sato disclose a data store for storing media content. Sato relates to analyzing the user input equalizer settings, in part by a microcomputer. Sato does disclose a microcomputer receiving and storing equalizer data and calculating parameters therefrom (col. 3, lines 44-49), however no mention is made of storing the media content itself."

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Examiner respectfully disagrees; the cited part of Sato qualifies as media content when giving the term the broadest most reasonable interpretation of one of ordinary skill in the art. In addition Sato further discloses the “entered data” of col. 3 line 44 may be user input or from a microphone (Fig. 1 and col. 3 line 64-67 and col. 4 line 1-8). This is clearly media content.

The argument with regard to Yoshino has been addressed in the previous Office action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FATIMAT O. OLANIRAN whose telephone number is (571)270-3437. The examiner can normally be reached on M-F 10:00-6 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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